IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4676 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : YES

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

THAKER SANJAYKUMAR PRANLAL

Versus

STATE OF GUJARAT

Appearance:

MR CH VORA for Petitioner

SHRI UA TRIVEDI, AGP for M/S PATEL ADVOCATES for Respondent No.1

MR NV ANJARIA for Respondent No. 2

CORAM : MR.JUSTICE J.N.BHATT

Date of decision: 06/04/2000

ORAL JUDGEMENT

1. The only question which requires to be examined and adjudicated upon in this petition under Article 226

of the Constitution of India is as to whether the graduation in Bachelor of Education (B.Ed.) Degree obtained from the Open University of Dr. Babasaheb Ambedkar under National Council of Teachers' Education (NCTE) could be said to be equivalent to the B.Ed. degree of the Gujarat University.

2. In order to examine this aspect, a few material facts leading to the rise of this petition may be narrated at first. The petitioner after obtaining the degree of Master of Arts from Gujarat University joined Dr. Babasaheb Ambedkar Open University for the course of Bachelor of Education degree, in the year 1995. He, thereafter, joined S.D. Sethia College of Education, at Mundra, Kutch affiliated with the Gujarat University for further education in Master of Education course for the year commencing from July, 1998 and started attending Part-I M.Ed. course.

3. Since the College demanded for provisional eligibility Certificate, the petitioner approached the Respondent No.2, Gujarat University, in July, 1998, and also submitted an application in the prescribed format alongwith necessary certificates to which, according to the petitioner, oral assurance was given that the question of giving recognition is under consideration and he will be intimated in due course of time. On 21.08.1998, the Gujarat University informed the Principal of the College that the B.Ed. degree course of Dr. Babasaheb Ambedkar Open University has not been given equivalence recognition and therefore the admission of the petitioner in M.Ed. course is required to be cancelled. This reply was pursuant to the letter written by the college authority, on 05.08.98. So, within a period of 15 days, the Gujarat University informed the College that the admission should be cancelled as there was no recognition of the said course of B.Ed.

4. After having made several applications and having written several reminders, the petitioner approached the Hon'ble Minister of State for Education and got a letter sent to the Gujarat University to grant equivalence recognition and to put the matter of the present petitioner before the Equivalence Committee.

Accordingly, the case of the petitioner was considered by the Equivalence Committee consisting of 7 Expert Deans of various Faculties of the Gujarat University and it was decided that the recognition of equivalence cannot be granted.

5. The Committee after having, seriously, considered the request of the petitioner, his college and later on by a letter of the Education Minister and, thereafter, has resolved that the Gujarat University has not recognised any correspondence course of any University and therefore, no equivalence can be granted so far as the case of the petitioner is concerned as regards his passing B.Ed. examination from Dr. Ambedkar University. It was, therefore, intimated that it was not possible for the Gujarat University to grant any eligibility certificate to the petitioner and he should not be granted admission and if any given, should be cancelled. Despite the clear warning given to the College from time to time not to grant admission to the petitioner, the College granted admission without even the eligibility certificate.

6. In short, the factual proposition which has emerged from the record of the present case is evident and obvious that the B.Ed. course degree acquired by the petitioner from Dr. Ambedkar University through correspondence course is not recognised and is not treated as equivalent to B.Ed. course of Gujarat University. Not only that, upon request being made by the Education Minister, the Committee of Experts took a clear decision and it was communicated to the College as well as the student that the Equivalence Committee is not in favour of recognising B.Ed. course of Dr. Ambedkar University as equivalent to B.Ed. course of the Gujarat University. In the circumstances, the petition is filed for a direction to the Gujarat University to treat the B.Ed. degree course of Dr. Ambedkar University as equivalent to the B.Ed. course of Gujarat University and other incidental prayers.

7. In view of the aforesaid factual scenario and the discussions of the facts emerging from the record, the petition is meritless. Nothing has been pointed out from any Rule, Provision, Circular, Resolution or any Statute

for that purpose under which the petitioner's claim or alleged right could be recognised by the court of law. In pursuance to any such rule, provision and more so in pursuance of a tacit, clear, evident decision of the Equivalence Committee consisting of as many as 7 Deans and Experts, the said course of B.Ed. of Dr. Ambedkar University has not been recognised and treated as equivalent to the B.Ed. course of the Gujarat University. Therefore, this petition needs to be thrown overboard, at the inception.

8. Before parting, it may be noted that the jurisdictional sweep of the court while entertaining a petition, exercising the powers under Article 226 of the Constitution of India, is very much circumscribed. It is required to consider as to whether there is any violation of the right. No violation of right is admittedly spelt out. Apart from that, this court does not sit in an appeal over the decision of the University based on the Experts' Committee Report. Therefore, the only fate with which the petition must meet with is rejection. Accordingly, it is rejected. Rule discharged. No order as to costs.

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